UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/590,942	06/09/2000	Ari Pine	M-8579 US	3684

7590 04/26/2004

Ari Pine
1578 Gary Street
East Meadow, NY 11554

EXAMINER	
POINVIL, FRANTZY	
ART UNIT	**PAPER NUMBER**
3628	

DATE MAILED: 04/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/590,942	PINE ET AL.	
	Examiner	Art Unit	
	Frantzy Poinvil	3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 December 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *57-74* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *57-64 and 66-74* is/are rejected.

7)☒ Claim(s) *65* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 63 is objected to because of the following informalities:

Claim 63 appears to be incomplete since it does not end with a period. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. Claims 62 and 66-74 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 62, lines 6-7, the phrase "such as" renders the claim vague and indefinite.

As per claim 66, it is unclear how a processing facility is being coupled to a database and is performing the recited functions.

Claims not directly addressed are rejected based on their dependencies.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 57-60, 63-64, 66-69 and 72-73 are rejected under 35 U.S.C. 102(e) as being anticipated by Tertitski et al (US Patent No. 6,493,681).

As per claim 57, Tertitski et al disclose a method performed on a computer for analyzing historical option market data, the method comprising:

Storing in a database a plurality of option characteristics for each option in a plurality of options (column 4, lines 2-7)

Storing in the database a plurality of underlying instrument characteristics fro the underlying instruments of the plurality of options (most options have a plurality of underlying characteristics such as strike price, expiration dates, number of shares);

Determining one or more relative reference values for each option in the plurality of options, said relative reference values being a function of one or more characteristic(s) of the option and one or more analysis characteristic(s) see column 3, lines 20-60);

Selecting reference criteria for evaluating the options; and

Identifying each option having a relative reference value satisfying the reference criteria (see column 3, line 65 to column 5, line 67).

As per claim 58, Tertitski et al disclose the options in the plurality of options are equity options or equity linked securities having embedded options. Equity options or equity linked securities are inherent types of options in the system of Tertitski et al.

As per claim 59, Tertitski et al disclose the options in the plurality of options are contracts based on a comprehensive set of underlying instruments. Contracts options based on a comprehensive set of underlying instruments is inherent in the system of Tertitski et al so as to include all types of options in the system of Tertitski et al.

As per claim 60, Tertitski et al disclose the step of determining the calculated option characteristics comprises determining an implied volatility for each option in the plurality of options. Such is an inherent feature in the system of Tertitski et al. See column 3 of Tertitski et al.

As per claim 63, Tertitski et al disclose the step of identifying the options having the relative reference value satisfying the reference criteria;

Identifies the options having that reference value or

identifies the options in a range of specified values or

calculates an interpolated or extrapolated value that satisfies the specified reference value based on relevant option characteristics in the database (see columns 4 and 5 of Tertitski et al)..

As per claim 64, Tertitski et al disclose the step of creating a report includes the ability to create mathematical functions of the characteristics of the identified options. See columns 4 and 5 of Tertitski et al.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 61 and 70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tertitski et al (US Patent No. 6,493,681).

As per claims 61 and 70, the method and system of Tertitski et al are discussed above. Tertitski et al does not explicitly disclose transmitting reports over a communication network. The Examiner asserts that reports of the performance of options are usually communicated to various entities and through the Internet. Providing such a feature in the system of Tertitski et al would have been obvious to one of ordinary skill in the art to do in the system of Tertitski et al in order to transmit and share reports to remote clients and/or managers.

Allowable subject matter

5. Claim 62, 71 and 74 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 65 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The prior art taken alone or in combination failed to teach or suggest the step of determining a relative reference value for each option comprises calculating a relative strike price based on the strike price of each option, the market price of the underlying instrument and additional data such as time until expiration as recited in independent claims 62 and 71.

As per claims 65 and 74, the prior art taken alone or in combination failed to teach or suggest the plurality of option characteristics include a trade date and an absolute expiration date; and the step of determining a relative reference value for each option comprising calculating a relative expiration data for each option based on the trade date and the absolute expiration date is not explicitly stated by Tertitski et al.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (703) 305-9779. The examiner can normally be reached on Monday-Thursday 7:00AM-5:30PM.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326 for Before Final actions and (703) 872-9327 for After Final actions.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

FP

April 14, 2004

Primary Examiner
Art Unit 3628